

RECEIVED

DAVID B. BARLOW, United States Attorney (#13117)
CAROL A. DAIN, Assistant United States Attorney, (#10065)
Attorneys for the United States of America
185 South State Street, Suite 300
Salt Lake City, Utah 84111
Telephone: (801) 524-5682

NOV 22 2011

**U.S. MAGISTRATE
JUDGE**

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH, CENTRAL DIVISION

SEALED

UNITED STATES OF AMERICA,

C O M P L A I N T

2:11-MJ-300 DN

Plaintiff,

VIO. 18 U.S.C. § 2251(a),

vs.

Production of Child Pornography;

SPENCER MCDOUGAL,
aka "JAMES ZUPO MARSDEN,"

VIO. 18 U.S.C. § 2422(b), Coercion and
Enticement For Illegal Sexual
Activity.

Defendant.

Before Honorable David O. Nuffer, United States Magistrate Judge for the District
of Utah, appeared the undersigned, who on oath deposes and says:

COUNT I
(18 U.S.C. 2251(a))
Production of Child Pornography

Beginning on a date unknown and continuing until November 22, 2011, in the
Central Division of the District of Utah,

SPENCER MCDOUGAL,
aka "JAMES ZUPO MARSDEN,"

defendant herein, did knowingly, employ, use, persuade, induce, entice and coerce minors, Victims 2 and 3, to engage in sexually explicit conduct for the purpose of producing visual depictions of such conduct, and the defendant SPENCER MCDOUGAL aka "JAMES ZUPO MARSDEN" knew and had reason to know such visual depictions would be transported across state lines and in foreign commerce, by any means including the internet, and which visual depictions were mailed and transported across state lines and in foreign commerce, by any means including the internet, and such visual depictions were produced using materials that had been mailed, shipped, and transported across state lines and in foreign commerce by any means, and attempted to do so; all in violation of 18 U.S.C. § 2251(a).

COUNT II
(18 U.S.C. § 2422(b))
Coercion and Enticement

Beginning on a date unknown and continuing until November 22, 2011, in the Central Division of the District of Utah,

SPENCER MCDOUGAL,
aka "JAMES ZUPO MARSDEN,"

the defendant herein, did knowingly and intentionally, by means of a facility of interstate commerce, persuade, induce, entice, and coerce an individual who had not attained the age of 18 years, to engage in sexual activity for which a person can be charged with a criminal offense, and attempted to do so; all in violation of 18 U.S.C. § 2422(b).

STATEMENT OF FACTS

I, Jeff Ross, being duly sworn, hereby depose and state as follows:

1. On May 25, 2011, the Department of Children and Family Services (DCFS) contacted the Taylorsville Police Department and reported that they received a call from a local church leader who reported that an anonymous individual had observed child pornography on the computer of Spencer McDougal including videos that depicted a minor walking around a bedroom in nothing but a towel.

2. On June 10, 2011, Detective Martinez interviewed Spencer McDougal. During the interview, McDougal admitted to buying a “nanny cam” which he secretly concealed in areas where the minor would frequently change clothing, or be naked. McDougal admitted to viewing the videos from the nanny cam and transferring them to his computer. McDougal provided consent for Detective Martinez to seize a Shuttle Computer, model SN95G5. McDougal admitted this was the computer to which he had downloaded the videos of the minor. Detective Martinez obtained a search warrant for the Shuttle computer on June 14, 2011. The computer was analyzed at the Regional Computer Forensics Lab.

3. Your affiant has reviewed the results of the examination of the Shuttle computer seized from McDougal. The examination revealed several videos and images of the minor in various stages of undress which appeared to have been taken by the nanny cam. Additionally, sexually explicit images of another minor, later identified and referred to here as Victim 2 (date of birth 8/12/95), were located on McDougal’s computer. The images depict the minor posing in sexually explicit poses with the focus of some of the images being

on her genitalia.

4. Victim 2 was interviewed by Detective Troy Martinez on July 29, 2011 and again on November 1, 2011. During these interviews, Victim 2 reported meeting a James Marsden on Facebook in approximately January of 2011. Victim 2 believed that James Marsden was a 17 year old male living in Idaho and that Marsden had previously lived in West Jordan. Victim 2 communicated with Marsden via Facebook, Google Voice text messaging, and via a Gmail account belonging to Marsden. After a few months of communicating on a regular basis, Marsden requested that Victim 2 send Marsden nude photographs. Victim 2 admitted to taking sexually explicit photographs with a cell phone and then sending these sexually explicit images via picture messages from the cell phone to a Gmail account belonging to Marsden. Victim 2 never met Marsden in person. Victim 2 provided the cell phone used to communicate with Marsden. A review of this cell phone identified the the Google Voice number used by Marsden.

5. On October 4, 2011, Facebook responded to a subpoena requesting information pertaining to Facebook accounts of James Zupo Marsden and Spencer McDougal. A review of the IP logs associated with both accounts indicated that both accounts regularly logged into Facebook IP address 67.137.237.122 which resolves to Integra Telecom. On some occasions both the McDougal and Marsden Facebook accounts logged the same IP address on the same date within minutes of one another. Logins for the Marsden Facebook account spanned the time period between July 11, 2011 and August 31, 2011. The IP address of 67.137.237.122 was the most commonly used IP

address by the James Zupo Marsden account. Other IP addresses logged by this account indicated that the Marsden account was accessing the Internet from a cellular telephone.

6. On October 5, 2011, Integra Telecom responded to a subpoena requesting information pertaining to the IP address and identified the subscriber of IP address 67.137.237.122 as McDougal Funeral Home. Spencer McDougal was identified by Integra Telecom as the contact for the account. Additionally, the IP address of 67.137.237.122 had been assigned to the subscriber since September 9, 2010. McDougal Funeral Home is Spencer McDougal's place of business.

7. On September 12, 2011 Google responded to a subpoena requesting identifying information and call and text detail pertaining to the user of the Google Voice Number used by James Zupo Marsden. A review of the text detail records for the Google Voice number spanned the time period between December 20, 2010 and August 28, 2011. There were over one thousand incoming and outgoing text messages recorded to this Google voice account. Your affiant was able to identify two phone numbers belonging to minors with whom McDougal (posing as Marsden) has exchanged text messages. One of the phone numbers belonged to Victim 2. The second minor was later identified and is referred to here as Victim 3 (date of birth 6/2/95). Text messages between McDougal and these minors occurred as recently as July and August of 2011.

8. Victim 3 was interviewed by Sgt. Travis Peterson of the Salt Lake District Attorney's Office. During that interview, Victim 3 reported meeting James Zupo Marsden online through Victim 2 during the summer of 2011. Victim 3 believed that James Marsden

was a 17 year old male residing in Idaho. During the course of the online relationship, Marsden asked Victim 3 to send "half naked photographs" to him. Victim 3 provided consent for law enforcement to review the contents of her facebook account which she used to communicate with Marsden. Your affiant reviewed the contents of this facebook account and located sexually explicit messages from the James Marsden profile to Victim 3 as recent as August 20, 2011.

9. On November 18, 2011, federal search warrants were authorized by United States Magistrate Judge David Nuffer, for the McDougal residence in Taylorsville, Utah and McDougal's place of business, McDougal Funeral Home. The search warrants were executed on November 22, 2011.

10. During the execution of the search warrants, a computer was located in the private office of Spencer McDougal at McDougal Funeral Home. A review of this computer provided evidence that McDougal had control of the James Zupo Marsden facebook account as the login information for that account was stored on the computer. Additionally, information obtained from the computer indicated that information pertaining to the Marsden account had been stored on a Samsung cellular phone and that thumb drives had been connected to this computer at one time.

11. During the execution of the search warrant at the McDougal residence, McDougal's Samsung cellular phone was seized. Additionally, thumb drives were seized in the immediate vicinity of where McDougal was located in the residence. An initial review

of these thumb drives located several hundred sexually suggestive photographs of minor females including nude photographs of Victim 3.



Jeffrey S. Ross

Federal Bureau of Investigation

SUBSCRIBED AND SWORN TO BEFORE ME THIS 22nd DAY OF November 2011.



Hon. David O. Nuffer
United States Magistrate Judge



Carol A. Dain
Assistant United States Attorney